

APPEAL NO. 010545

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 26, 2001. The hearing officer resolved the disputed issues by concluding that the appellant's (claimant) compensable injury of _____, did not extend to nor did it include an injury to his low back and that the claimant did not have disability as a result of his compensable injury. The claimant appeals on sufficiency grounds and requests that the Appeals Panel reverse the decision and order of the hearing officer. The respondent (carrier) responds and requests that the hearing officer be affirmed in all respects.

DECISION

Affirmed.

On _____, while working as a recreational vehicle (RV) technician at an RV dealership, the claimant sustained a compensable injury to his right hand when he attempted to remove a leveling jack from one of the front corners of an RV. The claimant asserted that he also injured his low back in that incident while twisting and turning to avoid being crushed should the RV fall down.

The hearing officer did not err in determining that the claimant's compensable injury to his right hand did not extend to and include an injury to his low back and that the claimant did not have disability as a result of his compensable injury. The parties introduced conflicting evidence on both issues. The claimant testified that he did not initially attribute his low back pain to that incident; that even though he returned to full duty after about two weeks of light duty and was able to perform his job duties, his low back pain became increasingly worse and his mobility became increasingly stilted; and that his employment was terminated for cause on or about September 13, 1999. The hearing officer found that the claimant injured his low back sometime between _____ and _____.

Pursuant to Section 410.165(a) of the 1989 Act, the hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established from the conflicting evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). This tribunal will not disrupt the contested findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not find them so here.

For these reasons, we affirm the hearing officer's decision and order.

Philip F. O'Neill
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge